

JULY 10, 2017

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JULY 10, 2017 IN THE HELEN KLEBERG GROVES COMMUNITY ROOM 400 WEST KING AVENUE, KINGSVILLE, TEXAS AT 6:00 P.M.

**CITY COMMISSION PRESENT:**

Sam Fugate, Mayor  
Edna Lopez, Commissioner  
Arturo Pecos, Commissioner  
Noel Pena, Commissioner

**CITY COMMISSION ABSENT:**

Al Garcia, Commissioner

**CITY STAFF PRESENT:**

Jesús Garza, City Manager  
Mary Valenzuela, City Secretary  
Courtney Alvarez, City Attorney  
Tom Ginter, Director of Planning & Development Services  
Diana Gonzales, Human Resources Director  
Kyle Benson, IT Manager  
Sharam Santillan, Capital Projects Manager  
Israel Vasquez, Facility Maintenance Manager  
Emilio Garcia, Health Director  
Jason Alfaro, Parks & Rec Director  
Derek Williams, Systems Specialist  
Adrian Garcia, Fire Chief  
David Solis, Risk Manager  
Bill Donnell, Asst. Public Works Director  
Charlie Sosa, Purchasing Manager  
Robert Rodriguez, Library Director  
Ricardo Torres, Police Chief

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate opened the meeting at 6:04 P.M. with four Commission members present. Commissioner Garcia absent from the meeting.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

The invocation was delivered by Mrs. Courtney Alvarez, City Attorney, followed by the Pledge of Allegiance and the Texas Pledge.

**MINUTES OF PREVIOUS MEETING(S)**

None.

**II. Public Hearing - (Required by Law).<sup>1</sup>**

1. None.

**III. Reports from Commission & Staff.<sup>2</sup>**

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports, Utilities Billing Update; Police & Fire Department – Grant Update, Police & Fire Reports; Streets Update; Public Works - Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Emergency Management, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Legislative Update, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Wastewater Treatment Plant, Water And Wastewater Rate Study Presentation. No formal action can be taken on these items at this time."*

Mayor Fugate read and presented a proclamation for Parks & Recreation Month to Mr. Jason Alfaro, Parks & Recreation Director.

City Attorney, Courtney Alvarez reported that the next scheduled meeting is scheduled for Monday, July 24, 2017. Deadline to submit agenda items for this meeting is Friday, July 14, 2017. Mrs. Alvarez gave a brief update on the 85<sup>th</sup> Legislative Session and the bills that have been approved that will effect cities. Alvarez announced that there were 214 bills that impacted cities in some way. Only ten of those bills were vetoed by the June 19<sup>th</sup> deadline, so there are currently 204 bills that have been approved that impact cities. Some bills are rather minor and other are obscured more than usual and some are more significant. Most of the bills will not take effect until September 1<sup>st</sup>. There are a few that will be in effect immediately. Alvarez further reported that there was one bill that was approved that will require a vote on the State Ballot for November 7<sup>th</sup>. This bill would be for a property tax exemption for the surviving spouse of a first responder that was killed or fatally injured in the line of duty. Alvarez mentioned that there has been a special session called where they will discuss items that did not have time for consideration during the regular session. The Governor has selected twenty items for the July 18<sup>th</sup> Special Session and eight of those twenty items directly impact cities which could be very harmful and negative. The major things they are looking at are property taxes, revenue and spending caps, annexation, and other methods to preamp local control. Of the 204 items that were passed and impact cities, you have nineteen bills that effective property taxes, five that effected sales taxes, seven that effected purchasing, fourteen effected elections, fifteen open government, forty bills that effected financial and administrative things, sixteen impacted Municipal Courts, eight impacted community and economic development, nine dealt with personnel matters, forty-two bills impacted public safety, thirteen bills impacted transportation, and twenty-six bills impacted utilities and the environment. With regards to some the mentioned items, House Bill 89, Purchasing, says that after September 1<sup>st</sup> any contract that a State or Local Government entity enters into with a vendor must include a provision that states that the vendor is not currently nor will in the future boycott Israel. They passed House Bill 100 that preamps a city's ability to regulate a transportation company such as Uber and Lyft, now it will only be the State regulating those companies as of September 1<sup>st</sup>.

Mayor Fugate asked about Taxi provisions. Mrs. Alvarez responded that this was different than what they call these transportation companies.

Mrs. Alvarez continued with her update stating that the Legislators passed a bill regarding Drones as well as automated cars. They also passed several bills that require law enforcement officers to have additional training in various areas. Some of the training will be developed by TCLEOSE but they will not provide cities with any money for the training. Senate Bill 4 regarding immigration was also passed of which part of the bill is being contested in court. Senate Bill 1004, which allows vendors to install small cellular equipment and towers in cities right-of-way's without allowing the city a lot of discretion. Alvarez further reported that there were a lot of other bills that will require tweak a few of our ordinances between now and September 1<sup>st</sup>.

#### **IV. Public Comment on Agenda Items.<sup>3</sup>**

##### **1. Comments on all agenda and non-agenda items.**

Mr. Lance Hamm, 912 South Creek, commented that regarding the agenda item on tonight's meeting dealing with the speed limit control on the highway, he looked at the map that TXDOT proposed it has him wondering was it an oversight, stupidity, or was it vengeance against him and the people at South Creek Subdivision. The speed limit that they are proposing is 60mph from over the General Cavazos overpass all the South to the Escondido bridge. Hamm further commented that there are only 2/10<sup>th</sup> of a mile from the bridge to the southern city limit that doesn't encompass the new 60mph speed limit which is crazy, 2/10<sup>th</sup> of a mile. Hamm further commented that people will now be speeding up going over the bridge approach the South Creek Subdivision and see the 75mph speed limit, which increase their speed limit even more, so their speeding up while we are slowing down to turn into the South Creek Subdivision. Hamm stated that for him, TXDOT is an idiot. Hamm further commented that the lack of information in the agenda packet for this agenda item, nowhere did he see nothing about the Kingsville City Ordinance that calls for 55mph for this highway. There is nothing in the packet that show the resolution that the City Commission signed two years ago asking for 55mph speed limit. There is nothing on the TXDOT resolution that says why they are doing at 60mp. They are doing it because the crash rate is higher at that intersection than the State average. Hamm stated that it is important for the people to know why TXDOT wants to go to 60mph. Hamm also commented that with regards to the rezone on Sage Road, it is his understanding that the Planning & Zoning Board voted 2-2 on this subject, which is a denial, and if this is the case, isn't the City Commission's duty to vote 3/4<sup>th</sup>'s vote to overturn the Planning & Zoning Board. Hamm says he thinks it's the right thing. Hamm also commented that he has a question about Commissioner Pena's employer/employee relationship with one of the Lawyers in the ordinance, does Commissioner Pena need to recuse himself for conflict of interest, he's not sure, he's

just bringing it up. Hamm stated that these are some things that are important in rezoning for the City of Kingsville.

V.

**Consent Agenda**

**Notice to the Public**

The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.

**CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)

Mayor Fugate requested that agenda item 2, on the consent agenda, be removed from consent and placed under the regular section of the agenda for discussion.

No objections were made from the City Commission regarding Mayor Fugate's request.

**Motion made by Commissioner Pena to approve the consent agenda as amended to approve only item #1, seconded by Commissioner Lopez and Commissioner Pecos. The motion was passed and approved by the following vote: Lopez, Pena, Pecos, Fugate voting "FOR".**

1. **Consider final passage of an ordinance amending the Fiscal Year 2016-2017 budget to accept and expend donation from the Task Force for the Parks Department. (Parks & Recreation Director).**

2. **Consider final passage of an ordinance amending the Fiscal Year 2016-2017 budget to create a contingency fund for an investment grade audit. (City Manager).**

Mayor Fugate commented that reason for removing this item from the consent agenda was to discuss that staff is going to spend \$175,000 on a study. He stated that he recalls this coming up about a year ago and one of the questions he had was if it's a capacity issue, which it was, what can the city do to divert some of our wastewater to out North Plant that is underutilized, which the North Plant is nowhere close to maximum capacity. Fugate stated that he understands that its anywhere from 40 to 50% and we are at 70% at the South Plant. Fugate further commented that he suspects that the City will get a plan that the City will not be able to afford, therefore, he is not prepared to do this at this time. Mayor Fugate asked that if there aren't any objections from the Commissioners present, he would like to not take action on this item in order to give staff the opportunity to come back with a study and show the Commission whether or not it is possible to divert and use our North Plant more efficiently.

No objections were made from the Commissioners, therefore no action was taken on this item.

**REGULAR AGENDA**

**CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

VI. Items for consideration by Commissioners.<sup>4</sup>

3. **Consider final passage of an ordinance amending the zoning ordinance by changing the zoning in reference to KT&I Co., Block 7, Lot W/23, Pt 4, 31.55 acres, also known as area behind 221 W. Sage Road from R1-Single Family to AG-Agriculture District, applicant Victoria Avalos. (Director of Planning and Development Services).**

Commissioner Pena commented that after a discussion he had with the City Attorney, she does not believe that there is a conflict of interest therefore he will recuse himself from this particular matter.

Mayor Fugate commented that this was brought to his attention today and he knows that Commissioner Pena works for Kenedy County not Mr. Villarreal, Judge Turcotte is his employer, but if Commissioner Pena wants to recuse himself from this item, it is his call.

Commissioner Pena commented that it is his call and technically he's in the picture as well so for appearance purposes it is best that he recuses himself from this situation.

Attorney Leo Villarreal, representative for Victoria Avalos, commented that he would like to submit seventeen letters that were signed by citizens, in support of the rezone, that reside in the area where the rezone is being requested.

Letters were submitted to the City Secretary.

Mrs. Alvarez commented that she would like to make a point of clarification. Section 15-6-4(a) of the City of Kingsville Code of Ordinances states that a three-fourths vote of the members of the City Commission would be necessary to overrule a recommendation of the Planning & Zoning Commission (P&Z) that a proposed amendment, supplement or change be denied. Since this item was not approved by P&Z, it was denied, the three-fourths vote would be four out of the five members, and being that we have Commissioner Garcia absent from this meeting and now we have a recusal.

Mayor Fugate asked that if all three Commissioners voted in favor it would still fail.

Mrs. Alvarez responded yes.

Mayor Fugate asked if the audience understood, that it would need to be a Super Majority vote which is a four-fifths of a vote. Mrs. Alvarez responded that this was correct.

Mayor Fugate commented that if Commissioner Pena recuses himself Commissioner Garcia has to be here to have four people to vote.

Mrs. Alvarez responded yes, to be eligible to vote. Alvarez further commented that she believes that at least two Commission members will not be present during the July 24<sup>th</sup> meeting, therefore this item would probably come back in August.

Commissioner Lopez asked if this number was for the number of the Commission, not the people that are present during tonight's meeting.

Mrs. Alvarez responded that it is for the number of the Commission.

Mayor Fugate commented that the Commission has had this issue before, this is not the first time. You have to have four people to vote for it and not three quarters.

Commissioner Lopez commented that of the people that are present.

Mayor Fugate commented that the Commission does not have enough people in order to take the vote.

Mrs. Alvarez responded that Commissioner Garcia's absence does not remove him from the number of people eligible to vote.

Mayor Fugate reiterated what was just said so that all the parties understand; since the Planning & Zoning Commission voted 2-2 to not approve the rezoning request, as a consequence, when it comes to the City Commission you have to have a super majority of the votes to pass the rezoning request. With Commissioner Pena recusing himself and Commissioner Garcia not being in attendance at this meeting, we only have three Commissioners, that's not enough. If all three voted to rezone, the item would still fail.

Mrs. Alvarez responded that this was correct.

Mayor Fugate continued to state that the three Commission members can take a vote or they could be fair about it and reset the item for a future meeting. For the next upcoming meeting on July 24<sup>th</sup> there will only be three Commission members present, as Commissioner Pena will be on vacation as well as Commissioner Garcia. This item wouldn't be able to be heard again until the first meeting in August, which is August 14<sup>th</sup>.

Mayor Fugate further asked the Commission what they would like to do regarding this item.

Commissioner Lopez commented to get it over with and let them vote. Lopez further commented that with regards to the letters that were given to them by Mr. Leo Villarreal, the property that they're in is in the 200 block and with the seventeen letters that were submitted, most of them are in the 600 block and some are repetitive family members from the same household.

Mayor Fugate commented that he knows that Commissioner Lopez wants to take care of this item tonight as he does, but in fairness to all the parties involved it's important to have the proper number of people to vote on this item. Mayor Fugate suggested that the Commission take no action on this item in fairness to all the parties.

Mr. Garza asked if the Commission had a specific date that they would like this item to be placed on the agenda.

Mayor Fugate commented that after promising those involved that this item would be taken care of during tonight's meeting, he is afraid to give them a specific date as it wasn't done this time. Mayor Fugate asked for staff to place this agenda item back on the agenda for the first meeting in August, which would be August 14<sup>th</sup>.

Commissioner Lopez commented that this would be a long time. Mayor Fugate commented that this was the best they could do.

Commissioner Lopez asked staff if all five members of the Commission would need to be present at the August 14<sup>th</sup> meeting or just four members.

Mr. Garza commented that as long as the four don't include Commissioner Pena. Mrs. Alvarez responded that this was correct.

**4. Consider awarding RFP #17-16 for consultant for the National Register of Historic Places Nomination, as per staff recommendation. (Director of Planning & Development Services).**

Mr. Tom Ginter, Director of Planning & Development Services stated that the City of Kingsville received three proposals in response to RFP 17-16 seeking a qualified consultant team to prepare a National Register of Historic Places Nomination for the Kingsville Downtown Historic District. The proposals were reviewed by Charlie Sosa, Purchasing Manager, Cynthia Martin, Downtown Manager, and Tom Ginter, Director of Planning & Development Services. Selection interviews were held via phone and references for all three firms were contacted. Two of the firms are based in Texas and one in Annapolis, MD. The two Texas firms have worked extensively with the Texas Historical Commission on similar projects, Hardy-Heck-Moore, Inc. for the past 34 years and SWCA Environmental Consultants for the past 25 years. The out-of-state firm, Aarcher, Inc., has worked on projects in Texas but in limited capacity and with a focus on individual buildings or installations on historic landscapes not downtown districts. The City successfully applied for a Fiscal Year 2017 CLG Grant for this project and was awarded up to \$15,000 for an estimated value of \$30,000 project. The financial impact based on the not to exceed bids provided by these firms is less than \$15,000. This money would be taken from the money set aside in the CO for Downtown revitalization. It is staff's recommendation that the contract be awarded to Hardy-Heck-Moore, Inc. as they have more experience in the nomination of historic districts and provide the best overall value to the City.

Mr. Garza commented that by being on this register, it allows the property that become a part of it to be open to federal tax credits as well as grant opportunities that will allow the City to go after as a member of the register.

**Motion made by Commissioner Pena to award RFP #17-16 for consultant for the National Register of Historic Places Nomination, as per staff recommendation, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Pecos, Lopez, Pena, Fugate voting "FOR".**

**5. Consider introduction of an ordinance amending Chapter VII, Article 8, Traffic Control Devices, providing for the installation of stop signs on West Avenue D at its intersection with North 4<sup>th</sup> Street and on North 4<sup>th</sup> Street at its intersection with West Avenue D. (Engineering Department).**

Mr. Sharam Santillan, Capital Improvements Manager, reported that On May 8<sup>th</sup>, 2017, The City of Kingsville received a complaint about the safety of the intersection at N. 4<sup>th</sup> St. and W. Avenue D. There is currently one stop sign at the intersection which holds the traffic on 4<sup>th</sup> St. while the traffic on Avenue D flows freely. Due to the conditions and visibility at the intersection, the thru traffic poses a danger to other motorists and pedestrians. Section 2B.07 "Multiway Stop Applications" of the MUTCD (Manual for Uniform Traffic Control Devices) supports the need for a stop sign at this location by meeting the criteria in which "Locations where a road user, after stopping, cannot see conflicting traffic and is not able to reasonably safely negotiate the intersection unless conflicting cross traffic is also required to stop".

Mr. Garza commented that the city has been working with the property owner for a while now on trying to find solutions to minimize the risk at this intersection. The city does have several ordinances that regulate certain level on placement of items within certain feet from an intersection. The property owner has moved a lot of the vegetation, but staff still feels that it poses a high level of risk therefore staff is willing to place a stop sign in the area.

Introduction item.

**6. Consider resolution approving reduction to the existing speed limit along US 77 approaching FM 1717 proposed by the Texas Department of Transportation from 65 to 60mph within the city limits of the City of Kingsville. (City Manager).**

Mr. Garza stated that it is the Commissions desire a couple of years ago to lower the speed limit 55mph, as well as the desire of the County Commissioners which approved a resolution in support of the lower speed limit. Garza further commented that the Texas Department of Transportation (TXDOT) has done various studies at this intersection to explore the potential to lower the speed limit. After a meeting with TXDOT representatives, city staff, members of the community, and representatives from office of State Officials, and what was discussed in this meeting was a game plan to propose on their end to lower the speed to 60mph with the potential of lowering it to 55mph at a later time.

Commissioner Lopez asked for clarification on the comment made by Mr. Lance Hamm during Public Comments, where he commented about the two-tenth of a mile.

Ms. America Garza, District Traffic Engineer, reported that the way the process works is, setting speed limits, and Mr. Hamm is correct, two-tenth of a mile is correct. What TXDOT does is they study the segment of roadway that's in question and they look at the 85% that the traffic public is doing and based on that information 85%, which is the majority of the public is reasonable speed that the traveling public is doing on this highway. For speed reduction they can reduce up to 10mph based on the geometry of the roadway and in this case they do have a bit of a hill and a horizontal curb approaching the intersection. Garza further stated that they can also look at driveway density or development coming in and also crashes. This is how they can also propose to lowering the speed limit up to 10mph with that criteria in mind. Garza stated that the process here is a little different as it's based on the crash rate. This is called the streamline process where the crash rate on the segment of highway if it's higher than the statewide average, they can lower up to 12mph instead of 10mph. TXDOT was able to do its study and based on what the study shows, and the recent study was showing 72mph along the stretch of highway near FM 1717, and based on their recent study they did some research on the segments where the crash rate was higher than the statewide average. Therefore, they were able to propose to reduce to 60mph along the segment of roadway. When TXDOT increase or decrease, it's in two-tenths of a mile segments. As Mr. Hamm is mentioned you will go from the 65mph go to 60mph as your heading south passed 1717 and then it's going to increase to 65mph and then 75mph. Garza stated that at the end of the speed breaks they need to have a two-tenths of a mile buffer/break when you change speed limits. She further commented that the data that they looked at in running the crash rate, they looked at FM 1717, a mile north and a mile south. Looking at that crash data, they had to reduce it to get that crash rate that is above the statewide average. She stated that she can go back and look at that information, but if she extends it, it will not be above the statewide average, therefore she can't reduce it as it is being proposed. Garza stated that they have done a lot of research and several studies, two in 2012 and couple in 2015 and one in 2016. Based on this information, they have done some interim improvements which are inline transfer rumba strips approaching an intersection, advance signing with LED edge lit signs and a speed advisory plaque of 55mph, as an advisory and not enforceable. This segment of roadway is where they find the crash rate to be higher than the statewide average and from this section, it is a 1.5 mile section is what they are proposing to be 60mph.

Commissioner Lopez commented that he knows about Mr. Hamm's concerns as there is residential in the area.

Ms. Garza commented that it will go up 5mph for two-tenths of a mile and then go up to 75mph. The segment of roadway they looked at was originally a two mile segment but the crash rates didn't fall above the statewide average so they had to reduce that segment to find the area where the crashes were occurring in that rate is above the statewide average so that they could propose a reduction to 60mph.

Mayor Fugate asked that when you are north of FM 1717, you are coming through Kingsville on the overpass at 65mph and somewhere along there you go down to 60mph. How far before you get to 70mph does it go down to 60mph if you are heading south.

Ms. Garza commented that she would need to look at her map, but once passed over General Cavazos it is 65mph which will become your 60mph which should be well before your FM 1717 section.

Mayor Fugate commented that the real dangerous part is when they come up the slope/incline and people on FM 1717 have to look back over their shoulder for oncoming traffic.

Ms. Garza commented that they have implemented some short term safety with their signage and the speed advisory sign of 55mph and the inline rumble strips which are a great audible tool to alert drivers that they are approaching an intersection ahead. Garza commented that this will also be on the northbound direction as well.

Mayor Fugate asked if the County passed this item. Mr. Garza commented that since this is inside the city limits it would only be the city supporting this effort.

**Motion made by Commissioner Pena to approve reduction to the existing speed limit along US 77 approaching FM 1717 proposed by the Texas Department of Transportation from 65 to 60mph within the city limits of the City of Kingsville, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Lopez, Pena, Pecos, Fugate voting "FOR".**

**7. Consider accepting donation of \$125 from the Women's Club of Kingsville-Athena Department for the Parks Department. (Parks & Recreation Director).**

**Motion made by Commissioner Pena to approve the donation of \$125 from the Women's Club of Kingsville-Athena Department for the Parks Department,**

seconded by Commissioner Lopez and Commissioner Pecos. The motion was passed and approved by the following vote: Pena, Pecos, Lopez, Fugate voting "FOR".

**8. Consider accepting donation of \$200 from John Womack & Co. for Tourism Department. (Tourism Director).**

Motion made by Commissioner Pena to approve the donation of \$200 from John Womack & Co. for Tourism Department, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Pecos, Lopez, Pena, Fugate voting "FOR".

**9. Consider introduction of an ordinance amending the Fiscal Year 2016-2017 Budget to accept and expend donations for Parks and Tourism Departments. (Finance Director).**

Introduction item.

**10. Discussion of draft contract and negotiations with South Texas Water Authority. (City Attorney).**

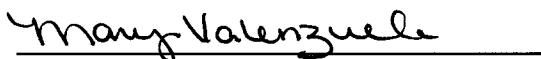
**VI. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 7:35 P.M.



Sam R. Fugate, Mayor

**ATTEST:**

  
Mary Valenzuela, TRMC, City Secretary